

The King Amenable to the Law.475

Is too much to expect, and, if it were so, law would be unnecessary. But law being necessary, what more natural than that a free people should forestall tyranny by making the chief magistrate subject to it with all the rest? And if a subject may institute a suit against the king for some petty cause, say the possession of a piece of land which is disputed by him, why not all the subjects in case of oppression? If it be objected that it is derogatory to the king to appear before an inferior for judgment, it must be remembered that it is the law that judgeth, seeing that the judge has his authority from the law, and not the law from the judge, and merely applies the law. The dignity of the law is above all other. Moreover, the law proceeds against a king who is guilty of crime, as a criminal and not as a king. Shocking logic this for the ears of a royal pupil, and that pupil the future James I. of England. His tutor does not apparently perceive the modern constitutional expedient of maintaining the inviolability of the king while calling to account his responsible advisers. The responsibility of ministers to the nation as well as to the king was not yet indubitably established as a factor of parliamentary government, and more revolutions were necessary to make this clear.

But, objects Maitland, have we not sworn allegiance to the king? Yes, but has the king not sworn allegiance to equity and justice? Is there not a compact between king and people, and, if the king break this compact, does he not forfeit his authority? If he act against the interest of the people, he is a tyrant, and, as a tyrant, may justly be put to death by any of his subjects, for he is in a state of war against the nation. Tyrants being by logic and their own deserts worthy of death, let foreign carpers at the Scots, therefore, hold their peace. Many nations, various governments; and no nation has a right to seek to impose its constitution on another, especially if that constitution be, in our author's fond imagination, two thousand years old, and consequently the oldest in Europe, and has proved its utility by keeping kings in moderation.

In all this Buchanan is not original. It would be easy to piece most of this democratic reasoning together from the writings of the mediaeval jurists and theologians. The doctrine of the compact, of the supremacy of law, even of tyrannicide,